

What's New with Phase II ?

*State and Local Permitting Changes
For
Erosion Prevention and Sediment
Control For Construction Sites
In
Georgetown & Scott County, Kentucky*

*Presented by:
Georgetown Stormwater Quality Division*

Outline of Today's Open House

- Introduce the "GSQUAD"
- Review 2009 changes to the Statewide EPSC regulations, or "KYR10"
- Introduction and summary of the 2010 local Land Disturbance Ordinance and permitting requirements

What is the GSQUAD?

The **G**eorgetown **S**tormwater **Q**uality **D**ivision is made up of the staff of the Planning Commission, City Engineer's Office, and Building Inspection, who collectively are responsible for review of design and inspection of construction of Erosion Control.



Municipal Separate Storm Sewer Systems (MS4s)

An MS4 is a conveyance or system of conveyances that is:

- Owned by a state, city, town, village, or other public entity that discharges to waters of the U.S.; Designed or used to collect or convey stormwater (including storm drains, pipes, ditches, etc.);
- Not a combined sewer
- Not part of a Publicly Owned Treatment Works (sewage treatment plant)

• Georgetown was classified a MS4 in 2003

2009 Planning & Tech
Specs Manual

2009 Field Guide

Kentucky
Erosion Prevention and Sediment
Field Guide

Kentucky
Best Management Practices (BMPs)
for Controlling Erosion, Sediment,
and Pollutant Runoff from
Construction Sites
Planning and Technical Specifications Manual

UPDATED

<http://www.water.ky.gov/permitting/wastewaterpermitting/KPDES/storm/>

Regulatory requirements

- Includes federal, state, and local laws
- If site has bare soil area of one acre or more, you will be operating under a state permit backed by federal law
- Penalties for violations: up to \$32,500 per day, per violation
- US EPA has targeted KY for enforcement

Who needs a permit?

- Construction sites with a disturbed (bare soil) area of one acre or more
- Construction sites with less than one acre of disturbed area that are part of a "common plan of development," like a subdivision



Common plan of development

- Includes subdivisions, commercial and industrial developments, etc.
- If one acre or more in the overall development will be disturbed (cleared, excavated, filled), **all areas** of the development need permit coverage
- If you are building on **any lot** in the development, you need permit coverage
- **Unless!** The individual portions of the development are separated by >.25 miles.

What does Stabilization mean?

- As defined by KYR10,
 - All soil disturbing activities at the site have been completed and either of the two following criteria are met:
 - an uniform perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or
 - equivalent stabilization measures (such as riprap, gabions, or geotextiles) have been employed.
 - For individual lots in residential construction, final stabilization means, the either:
 - The homebuilder has completed final stabilization as specified above, or
 - The homebuilder has established temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization.

Who has to get the permit?

- The construction site owner, or
- The construction site "operator"
 - Person who has control of plans and specifications, with decision-making authority
 - Person with day-to-day control over activities at the construction site
 - Can be developer or contractor
- Subcontractors at the site need permit coverage if they are involved in clearing, excavation, installing, or moving ESC controls

KPDES Permit requirements

- What are the requirements for construction sites?
 - Register with the KY Division of Water by filing a Notice of Intent (eNOI or NOI)
 - Local construction / grading permit may also needed
 - Develop a written SWPPP
 - Install & maintain BMPS
 - Document installations, inspections, & repairs
 - Remove controls & stabilize project
 - File a "Notice of Termination" with the KY Division of Water after project is completed to ensure that liability for runoff from the site has ended

How do you get the permit?

- Develop a SWPPP that addresses erosion, sediment, and polluted runoff (readily available)
- Complete a Notice of Intent form, send it to the KY Division of Water (and local stormwater office)
- E-NOIs will receive response in 7 days
- Paper NOIs receive response in 30 days
- You can begin work AFTER Notice of Coverage is approved. **NO MORE AUTOMATIC APPROVALS!**
- SWPPP subject to public review

Required Information for the NOI

- SIC Code
- Discharge Location
- Latitude and Longitude
- MS4 Operator Information
 - Important that applicant check the box for MS4 or GSQUAD will not get notification of approval, which can delay local approval
- USGS Topographic Map

Notice of Intent

<https://dep.gateway.ky.gov/eForms/default.aspx?FormID=7>



Welcome to the Department for Environmental Protection eForms Application.

You have selected the following electronic form (eForm): KYDES FORM NOI-SW (Construction) (KYDES Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity Under the KYDES General Permit). You may continue with a blank eForm by clicking on the "Continue with Blank eForm" button below or retrieve a previously saved version by entering your eForm Transaction ID in the field provided below.

<p>Option A: Select this option to fill out a blank eForm.</p> <p>Option B: Select this option to retrieve a previously saved or submitted eForm.</p> <p>The check box allows you to use previously saved/submitted eForm as a "template". The system will generate a new eForm Transaction ID allow you to submit the new form to DEP.</p>	<p><input type="button" value="Continue with Blank eForm"/></p> <p>Enter your eForm Transaction ID to retrieve the latest version of your form:</p> <p><input type="text"/></p> <p><input type="checkbox"/> I want a NEW eForm with the values from the previously saved/submitted ID.</p> <p><input type="button" value="Proceed"/></p>
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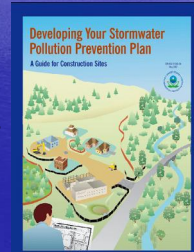
Use Internet Explorer 1. For Security reasons, the website only supports 45 minutes to complete data entry at any given time and will "time-out", preventing the ability to save or submit your data. Please keep this in mind when filling out an eForm. 2. Please note that the Internet Explorer browser uses the Backspace key as a Hot-Key for the Back button (Previous Page). When selecting values from a Dropdown List, using the backspace key will take you to the previous page and you will need to reenter your information.

Filing the Notice of Termination

- NOT is filed by the permittee when stormwater discharges are eliminated, or permittee is no longer responsible for the site
- Stormwater discharges end when site is finally stabilized and temporary BMPs are removed
 - Stabilization: all soil-disturbing activities are completed
 - Uniform perennial vegetative cover with 70% density for unpaved areas not covered by permanent structures, riprap, or geotextiles
 - Ditches, channels, ponds, etc. are stabilized

What is a SWPPP?

- Identifies potential sources of sediment and stormwater pollution at the construction site
- Describes practices to reduce pollutant runoff from the site
- Identifies procedures the operator will implement to comply with the terms and conditions of the KPDES permit
- Previously known as the Best Management Practices Plan (BMP Plan)



How do you develop a SWPPP?

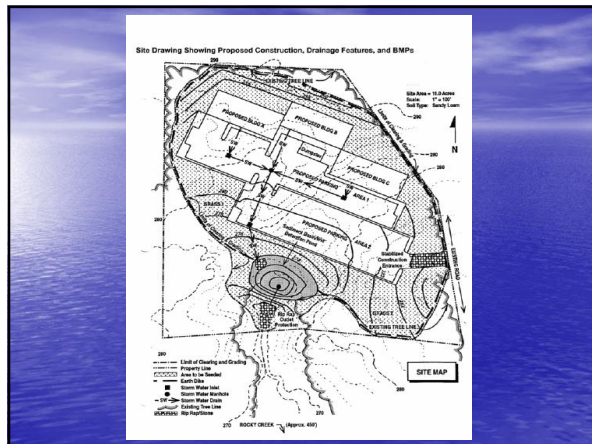
- Assess the site
- Mark off protected areas
 - Drainage ditches, creeks, etc.
 - Mature trees & natural areas
- Plan project phases
- Identify ESC & other controls
- Plan for inspections & maintenance



What should be in the SWPPP?

- Site description (map, schedule, slopes, etc.)
- Erosion & sediment control plan & measures
- Other controls (tracking, trash, sewage, etc.)
- Locally required permits or approvals
- Maintenance procedures (sediment removal, etc.)
- Inspection reports
- Controls on other runoff (fuel, dewatering, etc.)
- Contractor & subcontractor certification
- Signature

Construction Inspections



Symbols Used to Denote BMPs		
Page	BMP Categories and Specific Practices	Symbol
Site Preparation		
37	Land Grading	LG
40	Construction Exit	SCE
43	Temporary Diversion (Berm or Ditch)	TD → TD → D
46	Topsoil Stockpiling	
49	Surface Roughening	SR
Soil Stabilization		
53	Temporary Seeding	
55	Permanent Seeding	PS
58	Mulching	M
62	Sodding	SO
65	Polyacrylamides	PAM
67	Dust Control	

Keep grading, excavation, and fill work away from waterways if possible!

Recommended setbacks from waterways

Bank Slope	Soil Type Along Banks		
↓	Sandy	Silty	Clays
Very Steep (2:1 or more)	100 ft	80 ft	60 ft
Steep (4:1 or more)	80 ft	60 ft	40 ft
Moderate (6:1 or more)	60 ft	40 ft	30 ft
Mostly Flat (less than 10:1)	40 ft	30 ft	20 ft

Permit certification for contractors and subcontractors

All contractors and subcontractors identified in the BMP plan must sign a copy of the certification statement below in accordance with PART II of this permit before conducting any professional service at the site:

"I certify under penalty of law that I understand the terms and conditions of the general Kentucky Pollutant Discharge Elimination System (KPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification."

From the Kentucky General Permit for Construction Sites

KY DOW Permit: BMP plan "readily available"



Inspection requirements

Qualified personnel - shall inspect all storm water control measures, discharge locations, vehicle exits, disturbed areas of the construction site and material storage areas regularly;

- Every seven (7) days or,
- Once every fourteen (14) days (and within 24 hours of the end of a storm that is 0.5 inches or greater) and areas that have been temporarily or finally stabilized at least once a month

Who is qualified to inspect?

"Inspectors shall have training in stormwater construction management such as KEPSC, CEPSC, CPSWQ, TNEPSC, CESSWI, or other similar training."

Georgetown is "Flexible". We will consider most training programs – just ask.

Inspection reports

- Date
- Name and Title of Inspector
- Weather Information
- Discharge Locations
- Location of BMPs requiring maintenance
- Location of added BMPs
- Identify actions taken in response to findings
- Identify SWPP plan noncompliance
- Certify the report

Kentucky Construction Site Inspection Report

Kentucky Erosion and Sediment Control Permit Compliance Inspection Report

General Site Information:

COMPANY: _____ COUNTY: _____
 SITE: _____ DATE: _____

Permit Compliance Information:

Copy of permit kept on site	Yes	No
Copy of Best Management Practices (BMP) Plan kept on site		
Site specific description of project setting/ planning and implementation		
Adoptable site map showing:		
• Drainage patterns indicated on plan		
• Receiving waters (stream, river, lake, wetland, etc.) marked		
• Appropriate slopes after major grading		
• Area of non-disturbance		
• Undisturbed areas and vegetation buffer zones		
• Location of structure and non-structural controls (BMPs)		
• Areas where stabilization practices are to be employed		
• Storm water discharge locations		

Specific Site Information:

Name of receiving stream: _____
 Total area of site: _____
 Area disturbed: _____

Inspection Results:

Inspection Criteria:	Compliance	Non-Compliance	Notes
• Sedimentation, Mulching, Disinfectant			
• Condition of receiving stream			
• Is BMP Plan adequately implemented?			
• Driveway sealing and mulching			
• Revegetation on cut/WE cleared areas			
• Condition of slope areas			

Inspector responsibilities

- Know the permit requirements
- Be familiar with local ordinances and state regulations
- Make sure the BMP plan matches actual field conditions
- Monitor rainfall and sediment and other runoff
- Conduct required inspections
- Fill out written inspection reports
- Sign reports
- Communicate findings to site manager



What will you be inspecting?

- Discharge locations (sheet runoff, pipes, gullies, etc.) – where runoff leaves the site
- Bare soil areas
- Slopes – stabilized and bare
- Drainage system controls
- Housekeeping controls



What will you be inspecting?

- Linear Projects
- .25 miles in either direction from each point where a roadway, undisturbed row or other similar feature intersects the project and allows access



After the inspection...

- Communicate results to managers
- Repair failing BMPs
- Notify plan designers of findings – BMPs that aren't working – Places where BMPs are needed
- Amend SWPPP if necessary
- Keep inspection reports on file



KY DOW requirements. Inspection reports must be kept on file with the BMP plan for at least three (3) years after the date of inspection, or until one (1) year after permit coverage ends.

Planning elements & initial controls

- Assess the site
 - Identify protected areas
 - Mark them “off limits”
- Plan the phases of work
 - Limit bare areas to active work sites
 - Limit the time bare areas are exposed
- Install initial controls
 - Construction entrance, sediment traps & basins, downgradient silt fences



Last thoughts...Working near water

- Regulated waters include blue line & intermittent streams, wetlands, lakes, & rivers
- Work in channels, wetlands, etc. (including equipment crossings) MUST be done under a Clean Water Act Section 404 permit from US ACE
- KY DOW issues CWA Section 401 “Water Quality Certification” for Section 404 permit
- Activities can be covered under a Nationwide Permit IF channel impact is 200 ft or less, or wetland impact is 1 acre or less
- Individual 404 permit & 401 WQC are needed for some high-quality waters - when in doubt, ask!
- Contractors & subs must comply with 404 permit requirements and 401 WQC stipulations
- Work in the floodplain requires a KY DOW floodplain permit

Georgetown Ordinance 2010-014 Erosion Prevention and Sediment Control

- Revision of Ord. 2002-002, the “single lot erosion” ordinance
- Adds an administrative process
- Adds an progressive enforcement procedure
- Better defines threshold for permit need, which allows some exceptions to the process

Why a local permit?

- KYDOW also issued new KYG20 for MS4s
- MS4 has greater requirements placed on them to regulate KYR10
- Current ordinance had loop holes
 - Eg. No structure, no permit needed; grading/filling of lots unregulated
- NOTE: Builders will see little difference in technical requirements; just a couple of forms and a small fee for administrative costs

Who needs a permit?

- Construction sites with a disturbed (bare soil) area of **5,000 sq.ft.** or more
 - Old requirements was for “single lot”. By zoning, that was as small as 7,500 sq.ft.
 - Why 5,000? In Kentucky, statistically bigger than “an addition”; consistency with other regional governments
- Construction sites with less than one acre of disturbed area that are part of a “common plan of development,” like a subdivision
- Local Permit has established Tier I and Tier II to make this easier to understand
- There are exceptions – for both GSQUAD and permittee

Who has to get the permit?

- **Same as KYR10**
- The construction site owner, or
- The construction site “operator”
 - Person who has control of plans and specifications, with decision-making authority
 - Person with day-to-day control over activities at the construction site
 - Can be developer or contractor
- Subcontractors at the site need permit coverage if they are involved in clearing, excavation, installing, or moving ESC controls

Tiers I and II

- Tier I
 - Land Disturbances for single family, duplexes, additions, alterations of existing structures greater than 5,000 sq. ft. but less than 1 acres.
 - Even lots part of a Common Plan of Development and required to be permitted under KYR10 may qualify for Tier I IF the SWPPP included single lot EPSC controls
- Tier II
 - Other land Disturbances greater than 5,000 sq. ft. and those over 1 acre.

LD Permit requirements

What are the requirements for construction sites?

- Application / Fee
 - Fee is dependent on type of project and can be a little as \$0
 - Develop a written SWPPP Plan
 - Install & maintain BMPS
 - Document installations, inspections, & repairs
 - Remove controls & stabilize project
 - Local Permit requires proof the State eNOI and NOT are filed with KyDOW
 - Surety may be required.

Fiscal Surety

- Projects covered by Building Permit can be waived by GSQUAD if found unnecessary
- Amount = 2 x Cost of EC measures or \$1,000, whichever is greater
- Used as an enforcement tool, like Stop Work Orders on Building Permits
- Released with CO or CS

How do you get the permit?

- Develop a SWPPP plan that addresses erosion, sediment, and polluted runoff (readily available), just like KYR10.
- Complete an Application at any GSQUAD location
- Post Surety
- Tier I will receive response in 5 days
- Tier II receive response in 20 days
- You can begin work AFTER approval is given to application

How do I get a Certificate of Stabilization?

- Same concept as the N.O.T. for KYR10
- CS is issued by GSQUAD when Final Stabilization has been achieved
- CO for building permits will serve as CS for those projects covered by Building Permit

Local SWPPP Plan

- Requirements same as KYR10 in most cases
- Tier I has a "cheat sheet"
 - Single page plan with alternate grading scenarios; applicant completes check boxes and blanks and signs.
 - Intended to simplify, speed up, and reduce burden on the majority of permitting activity in Georgetown
- Tier II – same as KYR10
- Design of Tier I and II SWPPPs are included in the ordinance

Inspection requirements

AGAIN – Same as KYR10

Qualified personnel - shall inspect all storm water control measures, discharge locations, vehicle exits, disturbed areas of the construction site and material storage areas regularly;

- Every seven (7) days or,
- Once every fourteen (14) days (and within 24 hours of the end of a storm that is 0.5 inches or greater) and areas that have been temporarily or finally stabilized at least once a month

Inspector responsibilities

- Pre-Construction meetings may be required before work begins
 - Likely waived on Building Permits
- Permittee has to have a Qualified Inspector perform all inspections
- Permittee contact GSQUAD 24 hours prior to inspection for routine inspections
 - Again, on larger projects, not Building Permits
- GSQUAD will also provide periodic inspections, review the permittee's inspections, conduct enforcement when deficiencies are found

Progressive Enforcement

- Intended to encourage compliance, not fund the program
- Prior to offense – Verbal (help us help you)
- 1st offense – NOV; fine = \$0
- 2nd offense – SWO; fine = \$50
- 3rd offense – 2nd SWO; fine = \$100 & permit revocation
- Can also use injunctive relief
- Failure to comply with ordinance can result in fines up to \$500 /day and imprisonment up to 90 days

Enforcement Schedule

- NOV – fix in 5 days (old permit was 24 hrs.)
- SWO – 5 MORE days (old permit was 48 hrs.)
- 2nd SWO – 5 **MORE** days
- GSQUAD can evoke a Notice of Intent to the permittee to make repairs 6 days after SWO.
- GSQUAD make repairs after 14 days.
- Use Surety to pay expenses or bill permittee
- Failure to pay bill after 30 days will result in liens

Fees

- Tier I projects = \$25 (includes building permit project and is in addition to other fees)
- Tier II projects less than 1 acre = \$150
- Tier II projects over 1 acre = \$500*
- Revisions = half cost of application

* These projects likely require Planning Commission review as well. In these cases, the fee is the same fee customarily paid, not a second / new fee

Effective Date

- September 1, 2010
- The INTENT of the ordinance effective date being delayed until 9/1/10 was two-fold:
 - Get administrative process in place
 - Avoid "grandfathering"
- HOWEVER, all building permits are currently required to comply with the Ordinance 2002-002; the technical /field work requirements are no different. THEREFORE, to avoid any conflict with KY Building Code, and for goodwill, we will not require building permits to submit LD permit applications
- BUT, the big projects, and those land disturbances without permit, have to complete a LD application and obtain local permit coverage ASAP.

Additional Guidance

- Internal SOP made public
- Forms on city website under City Engineer's webpage
www.georgetownky.gov
- Application instructions provide example filing scenarios to assist in understanding of the process
- New KY field guides and BMP plan prep. manuals available from GSQUAD and online with KYDOW

